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| 10/825,729 | 04/16/2004 | Baird M. Smith | PA2627US | 8824 |
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| CARR & FERRELL LLP 2200 GENG ROAD PALO ALTO, CA 94303 | | | EXAMINER NAJARIAN, LENA | |
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|--------------------------------------|--|--|
| Office Action Summary | Application No. 10/825,729 | Applicant(s) SMITH, BAIRD M. | |
| | Examiner LENA NAJARIAN | Art Unit 3686 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 December 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Notice to Applicant

1. This communication is in response to the amendment filed 12/24/08. Claims 1 and 8 have been amended. Claims 1-26 remain pending.

Claim Objections

2. The objection to claim 1 is hereby withdrawn due to the amendment filed 12/24/08.

Claim Rejections - 35 USC § 112

3. The rejection of claim 8 under 35 U.S.C. 112, second paragraph, is hereby withdrawn due to the amendment filed 12/24/08.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1-12, 14-20, and 22-26 are rejected under 35 U.S.C. 102(e) as being anticipated by Reeder et al. (US 2002/0044059 A1).

(A) Referring to claim 1, Reeder discloses an integrated point-of-care system comprising (abstract and para. 2 of Reeder):

a medical monitoring device configured to monitor patient information for a patient (para. 12 of Reeder);

a medical care device configured to provide medical care to the patient (para. 14 and para. 84 of Reeder);

a computing system configured to receive patient information from the medical monitoring device, transmit control instructions to the medical care device to control the medical care to the patient, and exchange data with a central data repository through a communication network (para. 14, para. 84, and para. 92 of Reeder); and

a structure configured to support the patient, the medical monitoring device, the medical care device, and the computing system and transport the patient, the medical monitoring device, the medical care device, and the computing system together (para. 3, para. 42, and para. 99 of Reeder).

(B) Referring to claim 2, Reeder discloses wherein the patient information comprises vital signs of the patient (para. 3 and para. 103 of Reeder).

(C) Referring to claim 3, Reeder discloses wherein the structure comprises a mattress configured to support the patient (para. 122 and Fig. 15 of Reeder).

(D) Referring to claim 4, Reeder discloses wherein the medical care device is configured to administer a medication to the patient (para. 121 of Reeder).

(E) Referring to claim 5, Reeder discloses a power supply configured to supply power to the medical care device and the medical monitoring device (para. 14 of Reeder).

(F) Referring to claim 6, Reeder discloses wherein the power supply comprises a battery (para. 123 of Reeder).

(G) Referring to claim 7, Reeder discloses wherein the computing system further comprises a display device configured to display the control instructions or patient information (para. 4 and Fig. 1 of Reeder).

(H) Referring to claim 8, Reeder discloses wherein the display device comprises a flat-screen touch panel configured to allow user input for controlling the operation of the medical care device or the medical monitoring device (para. 85 and para. 95 of Reeder).

(I) Referring to claim 9, Reeder discloses wherein the computing system further comprises a keyboard (para. 6 of Reeder).

(J) Referring to claim 10, Reeder discloses wherein the communication network is wireless (para. 6 and para. 89 of Reeder).

(K) Referring to claim 11, Reeder discloses wherein the computing system further comprises a memory storage system configured to store the patient information or control instructions (para. 5 of Reeder).

(L) Referring to claim 12, Reeder discloses wherein the computing system further comprises an identification device configured to identify a person (para. 105 of Reeder).

(M) Referring to claim 14, Reeder discloses wherein the identification device comprises a voice recognition device (para. 85 of Reeder).

(N) Referring to claim 15, Reeder discloses wherein the identification device comprises a visual recognition device (para. 134 of Reeder).

(O) Referring to claim 16, Reeder discloses a camera configured to generate a visual image (para. 90 of Reeder).

(P) Referring to claim 17, Reeder discloses wherein the computing system further comprises a barcode reader (para. 6 of Reeder).

(Q) Referring to claim 18, Reeder discloses wherein the computing system further comprises a communication interface configured to communicate with the Internet (para. 90 of Reeder).

(R) Referring to claim 19, Reeder discloses wherein the computing system further comprises a communication interface configured to communicate with a television service provider (para. 115 of Reeder).

(S) Referring to claim 20, Reeder discloses a plurality of wheels mounted on the bottom of the structure to facilitate transport of the patient and the medical devices (Fig. 18 of Reeder).

(T) Referring to claim 22, Reeder discloses a method of operating an integrated point-of-care system comprising the steps of (abstract and para. 2 of Reeder):

supporting a patient, a computing system, a medical care device, and a medical monitoring device by using a structure (para. 3, para. 42, and para. 99 of Reeder);

providing control instructions to the medical care device through the computing system to provide medical care to the patient (para. 14, para. 84, and para. 92 of Reeder);

receiving patient information from the medical monitoring device into the computing system (para. 12 of Reeder);

exchanging data between the computing system and a central data repository through a communication network (para. 14, para. 84, and para. 92 of Reeder); and

transporting the patient, the medical monitoring device, the medical care device, and the computing system together by using the structure (para. 3, para. 42, and para. 99 of Reeder).

(U) Referring to claim 23, Reeder discloses the step of displaying the patient information (abstract of Reeder).

(V) Referring to claim 24, Reeder discloses the step of identifying a person authorized to operate the computing system by using an identification device (para. 11 of Reeder).

(W) Referring to claim 25, Reeder discloses the step of identifying the patient by using an identification device (para. 11 of Reeder).

(X) Referring to claim 26, Reeder discloses the step of identifying a medication to be administered to the patient by using an identification device (para. 121 and para. 86 of Reeder).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Reeder et al. (US 2002/0044059 A1) in view of Bui et al. (US 2003/0140928 A1).

(A) Referring to claim 13, Reeder does not disclose wherein the identification device comprises a fingerprint recognition device.

Bui discloses wherein the identification device comprises a fingerprint recognition device (para. 22, para. 125, and para. 128 of Bui).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the aforementioned feature of Bui within Reeder. The motivation for doing so would have been to determine unique physical characteristics in order to provide security (para. 125 of Bui).

8. Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Reeder et al. (US 2002/0044059 A1) in view of Kramer et al. (US 2002/0014951 A1).

(A) Referring to claim 21, Reeder does not disclose a radiant warming device mounted on the structure to warm the patient.

Kramer discloses a radiant warming device mounted on the structure to warm the patient (para. 63 of Kramer).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the aforementioned feature of Kramer within Reeder. The motivation for doing so would have been to accommodate the patients' needs (para. 63 of Kramer).

Response to Arguments

9. Applicant's arguments filed 12/24/08 have been fully considered but they are not persuasive. Applicant's arguments will be addressed hereinbelow in the order in which they appear in the response filed 12/24/08.

(1) Applicant argues that Reeder discloses that the instructions input to the system by the caregiver are related to the *monitoring* of patient information and not to the *control of medical care to the patient*. There is no disclosure by Reeder that any sort of control or other instruction is output by the system to control any other system. Rather, Reeder merely receives patient information.

(2) Applicant argues that Reeder does not disclose a transport system as recited in claim 1, which is configured to transport a medical care device in addition to the recited components.

(A) As per the first argument, the Examiner referred to the specification, but was unable to find any definition of “control instructions” given with precision, clarity, and deliberateness to warrant the meanings currently argued by Applicant. The Examiner respectfully submits that Applicant’s specification states that control instructions are merely data (see page 28, lines 20-21). Paragraphs 86-87 of Reeder, for example, teach transmitting data.

Moreover, words of the claim are generally given their ordinary and customary meaning, unless it appears from the written description that they were used differently by the Applicant. Where an Applicant chooses to be his or her own lexicographer and defines terms with special meanings, he or she must set out the special definition explicitly and with “reasonable clarity, deliberateness, and precision” in the disclosure to give one of ordinary skill in the art notice of the change. See *Teleflex Inc. v. Ficosa North America Corp.*, 299 F.3d 1313, 1325, 63 USPQ2d 1374, 1381 (Fed. Cir. 2002), *Rexnord Corp. v. Laitram Corp.*, 273 F.3d 1336, 1342, 60 USPQ2d 1851, 1854 (Fed. Cir. 2001), and MPEP § 2111.01. Pursuant to 35 USC § 112, 2nd paragraph “[i]t is Appellant’s burden to precisely define the invention, and not the [examiner’s].” In re *Morris*, 127 F.3d 1048, 1056, 44 USPQ2d 1023, 1029 (Fed. Cir. 1997). Therefore, it would not be proper for the examiner to give words of the claim special meaning when no such special meaning has been defined by the Applicant in the written description. In addition, it is noted that where a definition set forth in the written description is merely exemplary the Examiner should not consider this a special definition.

(B) As per the second argument, the Examiner respectfully submits that paragraph 87 of Reeder teaches a computer coupled to monitors, treatments devices, and therapy devices. This computer is then transported along with the patient (see Fig. 23 of Reeder).

Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to LENA NAJARIAN whose telephone number is (571) 272-7072. The examiner can normally be reached on Monday - Friday, 9:30 am - 6:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jerry O'Connor can be reached on (571) 272-6787. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or (571) 272-1000.

/L. N./
Examiner, Art Unit 3686
In
3/31/09

/Gerald J. O'Connor/
Supervisory Patent Examiner
Group Art Unit 3686